

IN THE  
Supreme Court of the United States

OCTOBER TERM, 1972

Nos. 70-40, 70-18

DOE, *et al*,

*v.*

BOLTON, ATTORNEY GENERAL  
OF GEORGIA, *et al*,

and

ROE, *et al*,

*v.*

WADE, DISTRICT ATTORNEY  
OF DALLAS COUNTY,

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1973

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Appellers.

Appellants 1973

MICHAEL RODAK, JR., CLERK

Appellee.

Appeals from the United States District Courts for the  
Northern District of Georgia and the Northern  
District of Texas, respectively

BRIEF OF STATE OF CONNECTICUT, AMICUS CURIAE,  
IN SUPPORT OF PETITIONS FOR REHEARING FILED  
BY THE STATES OF GEORGIA and TEXAS

STATE'S ATTORNEYS

By: GEORGE D. STOUGHTON  
*Chief Assistant State's Attorney,  
For Hartford County  
95 Washington Street  
Hartford, Connecticut 06106*

ATTORNEY GENERAL  
ROBERT K. KILLIAN

By: DANIEL R. SCHAEFER  
*Assistant Attorney General  
30 Trinity Street  
Hartford, Connecticut 06115*



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The State of Connecticut, as Amicus Curia, pursuant to Rule 42 of the Revised Rules of the United States Supreme Court, joins with the States of Georgia and Texas in support of their petitions for rehearing which are to be filed by February 16, 1973 and respectfully urges its favorable consideration on the following grounds:

1. The Attorney General and State's Attorneys of Connecticut are Appellants in appeals involving related issues concerning the constitutionality of state anti-abortion laws. *Markle v. Abele*, No. 72-56 and 72-730, docketed July 10, 1972 and November 16, 1972, respectively.

2. The Connecticut case (No. 72-730) is believed to be the only one involving the constitutional issue of abortion wherein an evidentiary record has been made.

3. The evidence in the Connecticut case demonstrates that an unborn child is an alive, separate and distinct human being from the time the child is conceived.

4. This evidence was wholly uncontradicted.

5. The evidence included cases where a number of "pre-viable" children were delivered alive as a result of induced abortion in New York City and then died.

6. The evidence also included at least one case where a child was delivered as a result of induced abortion and survived.

7. Your Amicus respectfully urges that this evidence may be of great assistance to the Court in resolving the question of when human life begins from the standpoint of medical science.

8. Evidence that there is a substantial margin of error in ascertaining a length of pregnancy is also in the record. In New York City there have been many abortions performed beyond the statutory limit of gestation.

9. Evidence as to unreported complications and deaths resulting from legalized abortion in New York City was also presented.

10. Your Amicus respectfully submits that the method of judicial notice taken in the Georgia and Texas cases wherein

no evidentiary record was made may not be appropriate in a case such as Connecticut's where there is a record of medical evidence.

11. The instant cases in which the petitions for rehearing have been filed are of great public moment. Your Amicus respectfully submits that it is essential that the judgments therein be based upon scientific evidence which has not yet been presented to this Court.

WHEREFORE, your Amicus respectfully urges this Court to grant the petitions filed by the States of Georgia and Texas for rehearing those cases and any other cases that are similarly situated. They respectfully submit that the ends of justice would best be served in such a rehearing by proceeding on the basis of plenary hearing in the Connecticut case where there is a record which speaks for itself.

Dated at Hartford, Connecticut, this 15th day of February, A.D., 1973.

*Respectfully submitted,*

STATE'S ATTORNEYS

By: GEORGE D. STOUGHTON  
*Chief Assistant State's Attorney*  
*For Hartford County*  
 95 Washington Street  
 Hartford, Connecticut 06106

ATTORNEY GENERAL  
 ROBERT K. KILLIAN

By: DANIEL R. SCHAEFER  
*Assistant Attorney General*  
 30 Trinity Street  
 Hartford, Connecticut 06115

## CERTIFICATE OF SERVICE

I, Daniel R. Schaefer, Attorney for Appellants, certify that a copy of the foregoing Brief of State of Connecticut, Amicus Curiae, In Support of Petitions for Rehearing Filed by the States of Georgia and Texas, was mailed, via U.S. Mail, Postage Prepaid, this 15th day of February, 1973, to the following counsel of record: Marjorie Pitts Hames, Suite 822, 15 Peach Street, N.E., Atlanta, Georgia 30303; Reber Boulton, Jr., and Charles Morgan, Jr., American Civil Liberties Foundation, Inc., 52 Fairlie Street, Atlanta, Georgia 30303; Elizabeth R. Rindskop and Gale M. Siegel, 185 Central Avenue, S.W., Atlanta, Georgia 30303; Tobiane Schwarth, 153 Prior Street, S.W., Atlanta, Georgia 30303; and Mrs. Dorothy Beasley, 132 Judicial Building, 40 Capitol Square, Atlanta, Georgia 30334, all counsel of record in the case of *Doe, et al v. Bolton, et al* No. 70-40; and to Mrs. Sarah Weddington, and James Weddington, 709 W. 14th Street, Austin, Texas 78701; Norman Dorsen, New York University Law School, Washington Square, New York, New York 10003; Robert C. Flowers, Asst. Atty. General, Capitol Station, P.O. Box 12548, Austin, Texas 78711; Henry Wade, Dallas County Court House, Dallas, Texas 75202; Roy Lucas, James Madison Constitutional Law Institute, 4 Patchin Place, New York, N.Y. 10011; Linda N. Coffee, 2130 First National Bank Building, Dallas, Texas 75202; Fred Bruner, and Ray L. Merrill, Jr., 1130 Mercantile Bank Building, Dallas, Texas 75201, all counsel of record in the case of *Roe v. Wade*, No. 70-18.

DANIEL R. SCHAEFER  
*Assistant Attorney General*

